



13 DEC -2 PM 3:08

Maddie

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

TOUFIK BADIH NADDI,

Petitioner,

vs.

DANIEL PARAMO, Warden,

Respondents.

WQH Civil No. 13-2751 ~~WVH~~ (WVG)

SUMMARY DISMISSAL OF
SUCCESSIVE PETITION
PURSUANT TO 28 U.S.C.
§ 2244(b)(3)(A) GATEKEEPER
PROVISION

Petitioner, Toufic Badih Naddi, a state prisoner proceeding pro se, has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 and paid the requisite filing fee.

PETITION BARRED BY GATEKEEPER PROVISION

The instant Petition is not the first Petition for a Writ of Habeas Corpus Petitioner has submitted to this Court challenging his conviction in San Diego Superior Court CR76494 for five counts of murder. On February 11, 2003, Petitioner filed in this Court a Petition for Writ of Habeas Corpus in case No. 03cv0286. In that petition, Petitioner challenged his conviction in San Diego Superior Court case No. SCR 76494 as well. On May 19, 2005, this Court denied the petition on the merits.¹ (See Order filed May 16,

¹ In the instant Petition, Petitioner states he was convicted on September 17, 1990. (Pet. at 1.) However, as discussed at length in this Court's Order denying Petitioner's 2003 Petition, Petitioner challenged his 1990 conviction via federal petition for habeas corpus, which was granted by this Court on April 29, 1996. (See *Nadi v. Hill*, No. 95cv0022 J (AJB) aff'd *Naddi v. Hill*, 152 F.3d 928 (9th Cir.

1 2005 in case No. 03cv0286 LAB (RBB) [ECF No. 43].) Petitioner appealed that
 2 determination. On March 28, 2006, the Ninth Circuit Court of Appeals denied
 3 Petitioner's request for certificate of appealability and dismissed the appeal. (See Order
 4 in *Naddi v. Garcia*, No. 05-56104 (9th Cir. Mar. 23, 2006) [ECF No. 53].)

5 Petitioner is now seeking to challenge the same conviction he challenged in his
 6 prior federal habeas petition. Unless a petitioner shows he or she has obtained an Order
 7 from the appropriate court of appeals authorizing the district court to consider a
 8 successive petition, the petition may not be filed in the district court. See 28 U.S.C. §
 9 2244(b)(3)(A). Here, there is no indication the Ninth Circuit Court of Appeals has
 10 granted Petitioner leave to file a successive petition.

11 **CONCLUSION**

12 Because there is no indication Petitioner has obtained permission from the Ninth
 13 Circuit Court of Appeals to file a successive petition, this Court cannot consider his
 14 Petition. Accordingly, the Court **DISMISSES** this action without prejudice to Petitioner
 15 filing a petition in this court if he obtains the necessary order from the Ninth Circuit
 16 Court of Appeals. For Petitioner's convenience, the Clerk of Court shall attach to this
 17 Order a blank Ninth Circuit Application for Leave to File Second or Successive Petition.

18 **IT IS SO ORDERED.**

19
 20 DATED: 12/2/13



21 William Q. Hayes
 22 United States District Judge
 23
 24
 25
 26
 27

28 1998). Naddi was retried and convicted in June 1999. See Order filed May 16, 2005 in case No.
 03cv0286 LAB (RBB) [ECF No. 43].